

S/N 09/077,572

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael A. Apicella et al.

Examiner: S. Devi

Serial No.: 09/077,572

Group Art Unit: 1641

Filed: June 1, 1998

Docket: 875.001US2

Title: NON-TOXIC MUTANTS OF PATHOGENIC GRAM-NEGATIVE BACTERIA

124
9/12/99

DECLARATION UNDER 37 C.F.R. § 1.132

We, Michael A. Apicella, Melvin G. Sunshine, Na-Gyong Lee, Rasappa Arumugham, and Bradford W. Gibson declare the following:

1. We are the applicants of the above-identified patent application. The above-identified patent application is a national stage filing under 35 U.S.C. § 371 of international patent application number PCT/US96/18984, filed on November 27, 1996, which in turn is an international filing of U.S. patent application number 08/565,943 filed on December 1, 1995.
2. Na-Gyong Lee, Melvin G. Sunshine, Bradford W. Gibson, and Michael A. Apicella are four of the five co-authors of the paper entitled "Mutation of the *htrB* Locus of *Haemophilus influenzae* Nontypable Strain 2019 Is Associated with Modifications of Lipid A and Phosphorylation of the Lipooligosaccharide (herein referred to as "the cited publication"), which appeared on pages 27151-27159 in the November 10, 1995 volume of *The Journal of Biological Chemistry* (Vol. 270), and which is cited by the Examiner under § 102(a). The fifth co-author of the cited publication is Jeffrey J. Engstrom.
3. The priority date of the present application is December 1, 1995, based on the filing date of the priority application 08/565,943. This priority date is less than one year after the publishing date of the cited publication.
4. Michael A. Apicella, Melvin G. Sunshine, Na-Gyong Lee, Rasappa Arumugham, and Bradford W. Gibson are co-inventors of the subject matter that is disclosed and claimed in the above-identified U.S. patent application, as stated in the Combined Declaration and Power of Attorney filed as part of this application. At the time of the present invention, the other co-author of the cited publication, Jeffrey J. Engstrom, was a technician working under the direction and supervision of Bradford W. Gibson; and thus Jeffrey J. Engstrom is not an inventor of the subject matter described and claimed in the above-identified application. Jeffrey J. Engstrom was listed as a coauthor of the

cited publication in order to receive credit for his work which was performed under the direction of, and with specific instructions from, Bradford W. Gibson. The listing of the authors names, therefore, was not an assertion of inventorship of the present invention.

5. As indicated above and in the Combined Declaration and Power of Attorney filed as part of this application, Rasappa Arumugham is a co-inventor of the subject matter that is disclosed and claimed in the above-identified U.S. patent application. Rasappa Arumugham is an inventor, but not a co-author of the cited reference, because he contributed subject matter concerning conjugation that was disclosed in the patent application, but not in the cited publication.

6. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: August 18, 1999

Michael A. Apicella
Michael A. Apicella

Date: August 18, 1999

Melvin G. Sunshine
Melvin G. Sunshine

Date: _____, 1999

Na-Gyong Lee

Date: _____, 1999

Rasappa Arumugham

Date: _____, 1999

Bradford W. Gibson



S/N 09/077,572

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael A. Apicella et al.

Examiner: S. Devi

Serial No.: 09/077,572

Group Art Unit: 1641

Filed: June 1, 1998

Docket: 875.001US2

Title: **NON-TOXIC MUTANTS OF PATHOGENIC GRAM-NEGATIVE BACTERIA**

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Date: _____, 1999

Michael A. Apicella

Date: _____, 1999

Melvin G. Sunshine

Date: August 14, 1999



Na-Gyong Lee

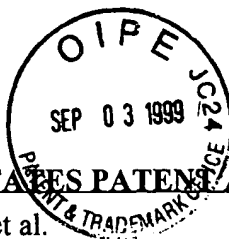
Date: _____, 1999

Rasappa Arumugham

Date: _____, 1999

Bradford W. Gibson

S/N 09/077,572



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Michael A. Apicella et al.	Examiner:	S. Devi
Serial No.:	09/077,572	Group Art Unit:	1641
Filed:	June 1, 1998	Docket:	875.001US2
Title:	NON-TOXIC MUTANTS OF PATHOGENIC GRAM-NEGATIVE BACTERIA		

DECLARATION UNDER 37 C.F.R. § 1.132

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Date: _____, 1999

Michael A. Apicella

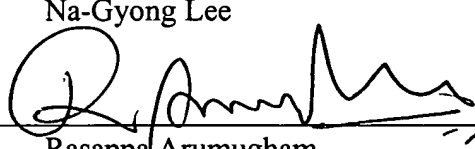
Date: _____, 1999

Melvin G. Sunshine

Date: _____, 1999

Na-Gyong Lee

Date: August 24, 1999



Rasappa Arumugham

Date: _____, 1999

Bradford W. Gibson



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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Date: _____, 1999

Michael A. Apicella

Date: _____, 1999

Melvin G. Sunshine

Date: _____, 1999

Na-Gyong Lee

Date: _____, 1999

Rasappa Arumugham

Date: August 25, 1999



Bradford W. Gibson